

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 13-4036-01-CR-C-FJG

CLARENCE DEAN BURWELL,

Defendant.

**ORDER**

Pending before the Court is Defendant's Motion to Suppress Physical Evidence (Doc. No. 40).

On March 13, 2014, United States Magistrate Judge Matt J. Whitworth held a hearing on the present matter. On May 30, 2014, Magistrate Judge Whitworth entered a Report and Recommendation (Doc. No. 61) which recommended denying defendant's motion. On June 16, 2014, defendant filed objections to the Report and Recommendation (Doc. No. 62). Defendant's objections are that (1) Magistrate Judge Whitworth "omits or glosses over several important and material facts" (Doc. No. 62, p. 1), including that a drug dog was called to the scene but was not used to conduct the search, a red cooler was found in the bed of the truck and was believed to contain illegal substances (but none were found at the scene), and that the defendant was arrested based on the totality of the circumstances, including inconsistent statements regarding over \$2,000 in currency found on his person and information provided to police by an informant; (2) the factual findings do not include a detailed description of defendant's vehicle, and that the officers did not know the make or model of the vehicle prior to the

stop; (3) the factual findings do not contain a description of what defendant was stopped for; and (4) the factual findings omit facts regarding the arrest of defendant. Defendant argues that (1) there was no reasonable suspicion to stop defendant's vehicle, (2) there was no probable cause to arrest defendant, (3) if the officers were so certain that defendant possessed methamphetamine in the cooler, the cooler should have been searched at the scene of the stop to get a basis for an arrest, and (4) the seizure of the currency was not supported by probable cause.

The Court, after independent review of the record and applicable law, adopts and incorporates by reference herein, the magistrate's findings and conclusions. In particular, the Court finds that even if it accepted as true all the defendant's criticisms of the facts as stated in the Report and Recommendation, those criticisms do nothing to alter the Magistrate Judge's well-supported conclusions that (1) reasonable suspicion permitted the stop of the vehicle, as (a) the officers believed defendant was in the area for purposes of completing a drug deal that the officers had already been monitoring via telephone conversations between defendant and an informant, and (b) the vehicle was identified by the informant as a purple truck, and the police viewed a purple truck with defendant inside and with a license plate that checked back to defendant; (2) probable cause supported defendant's arrest, as the informant provided specific information about the defendant, his automobile, and the location of drugs, and this information was corroborated by the information obtained during defendant's stop; (3) defendant gave consent to search his person and his car prior to any search being conducted, supporting the seizure of the currency and the search and seizure of the cooler and its contents.

Accordingly, defendant's motion to suppress (Doc. No. 40) is **DENIED**.

**IT IS SO ORDERED.**

Date: July 8, 2014  
Kansas City, Missouri

**S/ FERNANDO J. GAITAN, JR.**  
Fernando J. Gaitan, Jr.  
United States District Judge